

## Chapter 26.24

### FLOOD REGULATIONS FOR EXISTING URBAN AREA

#### Sections:

- 26.24.010**      **Definitions.**
- 26.24.020**      **Development of Land Within Floodplain.**
- 26.24.030**      **Information on a Preliminary Plat.**

#### **26.24.010**      **Definitions.**

For the purpose of this chapter, certain terms and words are hereby defined:

**100-Year Flood** shall mean the flood having a one percent chance of being equaled or exceeded in any given year.

**Base Flood** shall mean the flood having a one percent chance of being equaled or exceeded in any given year.

**Basement** shall mean any enclosed area having its floor below grade level on all sides.

**Development** shall mean any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**Existing Urban Area** shall mean those areas inside the corporate limits of the City of Lincoln, as well as those areas outside the corporate limits having a zoning designation other than AG Agriculture and AGR Agricultural Residential, on the effective date of this ordinance.

**FEMA** shall mean the Federal Emergency Management Agency.

**Flood Insurance Rate Map (FIRM)** shall mean the September 21, 2001 Flood Insurance Rate Map and any revisions thereto, on which FEMA has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**Flood Insurance Study** shall mean the Flood Insurance Study for Lancaster County, Nebraska and Incorporated Areas published by FEMA in conjunction with the FIRM and containing background data such as base flood discharges and water surface elevations used to prepare the FIRM.

**Floodplain** shall mean those lands which are subject to a one percent or greater chance of flooding in any given year as shown on the Flood Insurance Rate Map issued by FEMA for Lancaster County, Nebraska and incorporated areas, as amended. Copies of the said maps shall be on file in the Department of Building and Safety.

**Floodproofing** shall mean any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Floodway** shall mean the channel of a river or other watercourses and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**Letter of Map Change (LOMC)** shall mean a determination document issued by FEMA that officially revises the FIRM based on updated information, whether improved data or topography changes created by fill placement. Includes Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-f).

**Lowest floor** shall mean the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles or building access, in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

**NAVD** shall mean the North American Vertical Datum of 1988.

**Non-substantial improvement** shall mean any improvement that does not meet the definition of substantial improvement, as defined in this section.

**Qualified engineer** shall mean a registered professional engineer who, by reason of training and experience, is considered knowledgeable in hydrology and hydraulics and their application to the flood insurance study and has demonstrated competence to the satisfaction of the Director of Public Works and Utilities.

**Special Flood Hazard Area** shall mean the land in the floodplain subject to a one percent or greater chance of flooding in any given year.

**Start of construction** shall mean either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a substantial improvement, the actual start of construction shall mean the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimension of the building.

**Substantial improvement** shall mean any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure before the start of construction of the improvement. Substantial improvement shall include structures which have incurred substantial damage, regardless of the actual repair work performed. The term shall not, however, include either (i) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (ii) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation of a historic structure.

**Variance** shall mean a grant of relief from the terms of a floodplain management regulation, this shall be done by Special Permit in accordance with Section 27.52.060 of the Zoning Code.

**Violation** shall mean the failure of a structure or other development to be fully compliant with the floodplain management regulations as set forth in this chapter. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance as required is presumed to be in violation until such time as that documentation is provided. (Ord. 18355 §1; May 10, 2004).

#### **26.24.020 Development of Land Within Floodplain.**

There shall be no platting or subdivision of land allowed by the city within a floodplain unless the following conditions are met:

(a) That the development of any land located within the floodplain will be accomplished so as to protect building sites for residential development by raising of the ground elevation to at least one foot above the 100-year flood. The raising of the ground elevation shall be accomplished in such a manner that the general flow and storage of water is not unduly restricted or limited and will not cause flood hazards to other lands and developments, either within the proposed subdivision or otherwise, and that said protection shall be accomplished without creating the need for significant public expenditures for flood control.

(b) That the development of any land located within the floodplain will be accomplished so as to protect building sites for non-residential development by raising of the ground elevation to an elevation at least one foot above the 100-year flood or by floodproofing the structure to an elevation at least one foot above the 100-year flood, in accordance with Chapter 27.52, "Flood Regulations for Existing Urban Area," of the Zoning Ordinance.

(c) That any proposed use which is located within a floodplain and is subject to flooding shall be limited to such uses as open space, streets, and parking areas on that portion of the land within the floodplain where significant damage to life and property from flooding is most likely to occur. Any use approved to be located on land which is a floodplain shall be approved only after the following factors have been considered and any adverse impacts are mitigated to the satisfaction of the City:

- (1) The danger to life and property by water which may be backed up or diverted by such obstruction or land use;
- (2) The danger that the obstruction or land use will be swept downstream to the injury of others;
- (3) The availability of alternate locations;
- (4) The ability to construct or alter the obstruction in such a manner as to lessen any danger;
- (5) The permanence of the obstruction or land use;
- (6) The anticipated development in the foreseeable future of the land in which the proposed subdivision is to be located which may be affected by the obstruction or land use;
- (7) The degree to which safe access can be provided through areas that are projected to be flooded during a 100-year flood event.
- (8) Any additional conditions adopted by the city to ensure proper use of land within the floodplains.

(d) That any land within a floodplain from which fill is taken shall be hydrologically designed and maintained to reduce the likelihood of becoming refilled by silt. The subdivider must make arrangements satisfactory to the city binding his successors and assigns, to regrade or remove such silt as is necessary to return any area to its approved design after flooding has occurred. Any land from which fill is taken within a floodplain shall be at a grade that will continue to permit adequate drainage into the stream or watercourse. If a water area is to be maintained within the floodplain, consideration shall be given to the effect the water area may have upon the flooding of both the land within the floodplain and other lands outside of the floodplain.

(e) The location, grade, and flood-proofing of all proposed utilities which are to be extended into or through any portion of the floodplain to serve the proposed development shall first be approved by the city, prior to the extension of such utilities into the floodplain area.

If the city, at the time of platting, agrees to create special assessment districts for the construction of utilities to serve the subdivision, the subdivider shall remain responsible to pay the entire cost of the necessary construction and necessary flood-proofing of such public utilities when said utilities traverse any land subject to being inundated by flood water in order to serve the land within the proposed subdivision. The subdivider shall also enter into an agreement with the City to prohibit future connections to water mains and wastewater collectors to serve any land still subject to being inundated by flood water.

The subdivider shall obtain the approval of the Director of Public Works and Utilities for any modifications in the location or design of the borrow area within the floodplain. (Ord. 18355 §2; May 10, 2004).

#### **26.24.030 Information on a Preliminary Plat.**

The following additional information shall be included with the preliminary if any part of the subdivision is within the floodplain:

(a) All hydrological and grade information in NAVD 1988, including base flood elevation data within Zone A (no base flood elevations determined), which is necessary to determine the frequency and extent that the subdivision is subject to inundation by flood water, except that this shall not apply where the use of the property is not being changed and there are no physical changes on the site which have the potential to increase the flood hazard. When utilizing NGVD based flood elevations from FEMA floodplain maps, 0.50 feet shall be added to NGVD 1929 to obtain NAVD 1988, unless a more accurate conversion factor using an established conversion program is demonstrated to the satisfaction of the Director of Public Works and Utilities.

(b) All grading and drainage information in conformance with Section 26.15.020(b) of this title.

(c) In Zone A (no base flood elevations determined), for subdivisions greater than either five acres or fifty lots, detailed base flood elevation data based on an engineering study performed by a qualified engineer in accordance with FEMA approved methods for generating detailed base flood elevations. This provision shall not apply where the use of the property is not being changed and there are no physical changes on the site which have the potential to increase the flood hazard.

(d) The type and extent of the proposed use or development of the land which is located within the floodplain, along with such information as is necessary to determine the effect flood waters will have on such development and use and the effect such development and use may have upon the flood waters. All such information shall show the location of the proposed use, areas of habitation and employment, including the location, size, and floor elevation of any structures, the location and elevation of all parking areas, and the use, location, and elevations of all open land areas.

(e) The proposed centerline grade of streets or private roadways located within the floodplain that are necessary to serve the proposed development. The proposed centerline grade shall not be more than one foot below the 50-year flood elevation.

(f) The limits of the 100-year floodplain and floodway.

(g) The amount of fill material to be brought into the floodplain from outside the floodplain.

(h) Information, documentation and certification by a professional engineer or hydrologist demonstrating any grading within the floodway will not result in any increase in the flood level during the occurrence of the base flood discharge.

An exception to the above shall be permitted provided the applicant has acquired by land rights purchase, flowage easement, or other legal arrangement the right to increase the flood levels on all affected lands, and provided that before any permit is issued the applicant submits a Federal Emergency Management Agency (FEMA) approved Conditional Letter of Map Revision to the Director of Building and Safety. When such encroachment is completed, a FEMA approved Letter of Map Revision must also be provided by the applicant. (Ord. 18355 §2; May 10, 2004).